

DEPARTMENT OF ENVIRONMENTAL PROTECTION Monthly Enforcement Report for actions during April 2012

DISTRIBUTED: May 3, 2012

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future

Administrative Consent Agreements Approved by the Commissioner and Office of the Attorney General (party followed by location):

Asbestos:

EnviroVantage, Inc., Kittery, Maine. EnviroVantage, Inc. ("EnviroVantage") violated the Department's *Asbestos Management Regulations* by: allowing personnel to wear clothing under protective suits and footwear that was not designated and marked for asbestos use only; allowing personnel to proceed to and enter into a regulated area without first removing all street clothes and footwear in a clean room; not requiring personnel to change into asbestos clothing in an equipment room; not requiring personnel to put on respirators in a clean room and before proceeding to an equipment room; failing to require personnel to place a clean protective suit and booties over their asbestos clothing before proceeding to a regulated area; failing to provide personnel with a clean, unused suit to carry to a regulated area for use upon egress; allowing personnel to exit a regulated area without first removing all visible debris; and allowing personnel to remove respirators prior to showering. To resolve the violations, EnviroVantage paid \$4,500 as a civil monetary penalty.

Hazardous Waste:

Bath Iron Works Corporation, Bath and Brunswick, Maine. Bath Iron Works Corporation ("BIW") violated provisions of the Department's rules concerning *Standards for Generators of Hazardous Waste* by: failing to keep containers of hazardous waste paint closed except when adding or removing waste; failing to label or mark a container of hazardous waste with the words "Hazardous Waste"; failing to label containers of hazardous waste with the date upon which each period of accumulation began; accumulating hazardous waste for more than ninety days without a license to do so; treating ignitable hazardous waste liquids from bags of hazardous waste still bottoms by evaporation without a license to do so; failing to determine whether ignitable hazardous waste liquid still bottoms were hazardous waste; failing to have an adequate containment and collection system in a hazardous waste storage area; failing to conduct and records daily inspections of hazardous waste containers. In addition, BIW failed to comply with the conditions of a Department-issued license by failing to remove the filter and seal the bung of an aerosol can depressurizing unit between uses. Following Department involvement, BIW indicated that it had undertaken corrective actions to address the violations. To resolve the violations, BIW paid a civil monetary penalty of \$12,200.

Land:

Rick Conant and Monica Conant, Rome, Maine. Rick Conant and Monica Conant ("the Conants") entered into an administrative consent agreement with the Department related to tree cutting within the shoreland zone of Great Pond. The record reflects that the Conant's were given permission by the Town of Rome Code Enforcement Officer ("CEO") to remove fourteen trees on their property within the shoreland zone that the CEO had concluded were unsafe. A Department inspection following receipt of a complaint concluded that the number of trees removed by the Conants was excessive under Maine's *Mandatory Shoreland Zoning Act*, notwithstanding the approval of the CEO. The Conants do not agree with the Department's assessment and do not admit any liability or wrongdoing by entering into the agreement with the Department. The Conants had previously entered into a consent agreement



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with the Town of Rome for the planting of fourteen replacement trees, which was completed. To resolve the Department's allegations, the Conants agreed to replant seven trees on the property in accordance with a planting plan and replace any tree that dies within three years of its planting and paid \$1,000 as a civil monetary penalty.

Town of Rome, Rome, Maine. The Town of Rome violated Maine's *Mandatory Shoreland Zoning Act* by permitting trees that are not unsafe or a "hazard" to be removed in excess of the clearing standards provided for in the Town of Rome's Shoreland Zoning Ordinance and by allowing a cleared opening in the forest canopy exceeding ordinance requirements without requiring the replanting of trees. Specifically, a Code Enforcement Officer ("CEO") for the Town of Rome, gave written permission to a landowner to remove what the CEO concluded were fourteen unsafe trees. Department staff inspected the subject property after receiving a complaint regarding the cutting and concluded that the number of trees allowed to be removed by the CEO was excessive. To resolve the violation, the Town of Rome agreed to require the CEO to attend training, require the CEO to notify the Department prior to granting approval to remove more than two hazard trees within the water setback area of the shoreland zone, and paid \$500 as a civil monetary penalty.

The George H. Rippere Jr., Living Trust and Coyote Creek Farm, LLC, Milbridge, Maine. The George H. Rippere Jr., Living Trust ("Rippere Trust") and Coyote Creek Farm, LLC ("Coyote Creek") violated Maine's *Natural Resources Protection Act* by removing or causing to be removed vegetation in a significant wildlife habitat and displacing or causing to be displaced soil adjacent to a river, stream, or brook without first obtaining a permit from the Department. Specifically, a Department inspection revealed that Rippere Trust and Coyote Creek had caused 8.6 acres of significant wildlife habitat to be cleared of vegetation. Within the 8.6 acre area, 7.2 acres had been bulldozed. In addition, soil had been bulldozed and displaced within seventy-five feet of Beaver Meadow Brook. To resolve the violations, the Rippere Trust and Coyote Creek agreed to submit a restoration plan to the Department to restore the altered significant wildlife habitat to its original condition or as near thereto as practicable, and paid \$4,002 as a civil monetary penalty.

District Court Enforcement Resolutions (party followed by location):

Mining:

State of Maine, Department of Environmental Protection v. Everett F. Snow III, Bridgton, Maine. Everett F. Snow III ("Snow") violated Maine's *Performance Standards for Excavations for Borrow, Clay, Topsoil, or Silt* law by creating or operating an excavation on a parcel that is equal to or more than five acres since January 1, 1970 prior to filing a "Notice of Intent to Comply" with the Department. Specifically, Snow operated an excavation of approximately nine acres which had been expanded between 1986 and 2010. Following Department involvement, Snow submitted an after-the-fact "Notice of Intent to Comply" to the Department. To resolve the violation, Snow entered into a Consent Decree and Order with the Department which was approved by the court. Snow agreed to pay \$3,500 as a civil monetary penalty, of which \$1,750 will be paid pursuant to the terms of a payment plan and \$1,750 will be suspended and permanently waived if the payment plan is completed in accordance with the terms of the Consent Decree and Order.

Superior Court Enforcement Resolutions (party followed by location):

Solid Waste:

State of Maine and Maine Department of Environmental Protection v. CLRS Properties, LLC and Roland A. Smalley, Jr., Gorham, Maine. This was a consolidated action with the Town of Gorham concerning a solid waste recycling buiness in Gorham. The business was operated by Plan-it Recycling & Transfer, Inc. ("Plan-it



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Recycling") and the site upon which the business operated was owned by CLRS Properties, LLC ("CLRS Properties). Roland A. Smalley, Jr. ("Smalley") is President of Plan-it Recycling and manager of CLRS Properties. In its complaint, the Department alleged that CLRS Properties and Smalley violated proviosions of the Department's Solid Waste Management Rules for *Transfer Stations and Storage Sites for Solid Waste* and *Processing Facilities* and provisions of a Department-issued transfer station and solid waste processing facility license. Subsequent to the Department filing its complaint, a third party acquired the first priority mortgage of the subject facility granted by CLRS Properties. Acquisition of the mortgage allowed the third party to utilize the rights, powers, and priorities of the senior mortgage to remedy the violations asserted in the complaint. Following the third party's acquisition of the mortgage, it undertook substantial remediation efforts to rectify the environmental contamination problems associated with the violations in the complaint. The clean-up was conducted by the third party pursuant to the terms of a Voluntary Response Action Plan ("VRAP") application to the Department. In addition, a post-removal environmental screening was conducted by the third party. Following the clean-up, a consent judgment resolving the Department's claims was entered by the court.